



# 2012 CANDIDATE MANUAL

*Campaign Finance Information  
for Candidates in the City of San Diego*

Technical assistance via telephone: (619) 533-3476  
Via email: [ethicscommission@sandiego.gov](mailto:ethicscommission@sandiego.gov)

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# Introduction

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This Candidate Manual is designed to help City candidates and their committees understand and comply with the City's campaign laws. It is intended to serve as a supplement to the State of California Fair Political Practices Commission's [FPPC] Campaign Disclosure Manual 2 (for local candidates), which can be viewed online at <http://www.fppc.ca.gov/manuals/manual2lo-cal.pdf>. City candidates and their treasurers are responsible for familiarizing themselves with all of the information in both of these manuals.

This manual is intended solely for candidates and their election campaign committees. The Ethics Commission has prepared a separate campaign manual designed for primarily formed recipient committees, general purpose recipient committees, and other entities that make independent expenditures in City of San Diego elections. The Commission's 2012 manual for these types of committees is available on the Commission's website.

Also available on the Commission's website are a number of fact sheets providing guidance on specific aspects of the City's campaign laws; a list of the Top 10 rules for City candidates, and a series of Frequently Asked Questions. In addition, in the Advice Letters section of the Commission's website you will find formal letters of advice addressing questions relating to the City's ethics laws, including campaign finance laws.

The majority of the state's campaign laws have been incorporated into the City's laws. This means that the City's Ethics Commission can provide you with advice and assistance on the issues addressed in the FPPC Manual. Rather than repeating the information included in the FPPC

Manual, however, this manual will address the additional City rules that govern your activities as a City candidate, including the City laws that are more stringent than the state's laws.

This manual is not meant to serve as a substitute for the actual provisions in state law (the Political Reform Act) or City law (the Election Campaign Control Ordinance and the Ethics Ordinance).

The City Clerk is the filing official for the City of San Diego and is responsible for administering the City's elections. As discussed in greater detail below, questions concerning how to become a City candidate or when to file campaign statements should be directed to the City Clerk as follows:

(619) 533-4025

[www.sandiego.gov/city-clerk](http://www.sandiego.gov/city-clerk)

Other requests for advice and assistance concerning campaign laws should be directed to the Ethics Commission as follows:

(619) 533-3476

[ethicscommission@sandiego.gov](mailto:ethicscommission@sandiego.gov)

Keep in mind that the Ethics Commission can only provide technical assistance to candidates and their committees in advance of any contemplated action. In other words, the Ethics Commission cannot help you after you have violated the City's campaign laws, so please be sure to contact our office before you take the action in question.

Finally, please remember that your decision to run for elective office in the City of San Diego carries with it certain responsibilities. In particular, you are required to abide by

state and local laws that regulate the conduct of candidates and their committees, which are explained in detail in the FPPC Manual and the various chapters in this manual. The failure to adhere to these laws could result in a variety of penalties, including but not limited to administrative fines imposed by the Ethics Commission in amounts up to \$5,000 per violation.

# Chapter 1

## Finances / Recordkeeping

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Chapter 1 in the FPPC Campaign Disclosure Manual includes information regarding requirements associated with forming a campaign committee and setting up a campaign bank account. The information in this Ethics Commission Candidate Manual is intended to supplement the information in the FPPC Manual. In some instances, however, the information in this manual will supersede the information in the FPPC Manual (these instances are specifically called out).

### Campaign Bank Account

All candidates for elective City office must have one, and only one, campaign checking account per election, and this account must be maintained at a financial institution that provides services in the City of San Diego. (For purposes of the “one account per election” rule, the primary and general elections are considered one election). All contributions must be deposited into this account, and all expenditures must be made from this account. In addition:

- a candidate’s committee has “received” a contribution whenever any representative of the committee (i.e. treasurer or fundraiser) takes possession of the contribution.
- once the campaign committee receives a contribution, it must be deposited into the committee’s bank account within 30 business days; however, see the next section entitled “Recordkeeping” for information that must be obtained from the contributor before a contribution is deposited.

- if a contribution is not deposited within 30 business days, it must be returned to the contributor as soon as possible, but no later than 35 business days after receipt.
- all expenditures from the campaign committee must be made via check signed by the candidate, the candidate’s campaign treasurer, or the assistant treasurer.
- refer to the guidelines in the FPPC Manual regarding the use of a credit card to make campaign expenditures.

As explained in the FPPC Manual, a candidate who wishes to use his or her own money for campaign-related purposes (other than the initial filing fee) must deposit that money into the committee’s bank account. This includes both loans and contributions from the candidate.

**Example:** *Candidate Candace Cole needs to purchase office supplies for her campaign committee. She goes to Office Depot and writes a personal check to pay for the supplies, thinking that she’ll reimburse herself from the campaign account at a later date. This is not allowed. If Candace wants to use her personal funds for office supplies, she must first deposit her personal check into her campaign bank account, and then use the campaign funds to purchase the supplies.*

Please see Chapter 2 – Contributions for additional information regarding the time periods that candidates may accept contributions and spend personal funds for election-related purposes.

## Recordkeeping

Candidates and their committees are required to maintain records associated with all contributions received and all expenditures made by their committees for a period of four years. In particular, candidates must maintain the following records:

- for cash contributions, a notation that cash was received, and a legible photocopy of the bank deposit slip showing that the cash contribution was deposited into the campaign contribution checking account;
- if a contribution is of something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the contribution, and the basis for the estimate;
- for each check drawn on the campaign checking account, the canceled check, the bank statement showing the payment, the name of the payee of each check, an itemized record of the goods or services for which each check was issued, and legible photocopies or originals of any invoices, bills, or other supporting documents for which funds were disbursed.

In addition, the City of San Diego has more stringent laws than the State of California when it comes to the records associated with contributors. City candidates must obtain all of the following information before a contribution may be deposited:

- ✓ the contributor's full name; and
- ✓ the contributor's street address (business addresses are permitted but not post office boxes); and

- ✓ the contributor's occupation and employer (if the contributor has given you a total of \$100 or more). If a contributor is self-employed, candidates must obtain the name of the business.

This requirement applies to all contributions, whether they are made via cash, check, or credit card.

**Note: This information supersedes the information in the FPPC Manual, which states that candidates have 60 days to obtain occupation and employer information.**

Although the City's laws do not expressly state that candidates must obtain contributor information directly from the contributor, the Ethics Commission strongly encourages you to do so to avoid obtaining inaccurate information. If you choose to obtain the required information from other sources (e.g., the host of a fundraiser or a campaign statement filed by another committee), you do so at your own risk. Remember that the failure to disclose accurate contributor information could result in an Ethics Commission fine.

Candidates and their campaign committee representatives must produce copies of records associated with campaign contributions and expenditures to the Ethics Commission upon request. In addition, candidates should not assume that their records will be maintained by their banks. If a bank is unable to produce relevant records related to a candidate's account (e.g., the bank merged with another bank) the candidate will be held responsible for complying with recordkeeping laws. In other words, the failure to produce records requested by the Commission could result in a fine.

## **Audits**

The San Diego Municipal Code authorizes the Ethics Commission to audit candidate committees. Candidate committees will be randomly selected for audit following each election cycle as follows:

- 75% of committees that raise or spend more than \$100,000 will be audited;
- 50% of committees that raise or spend between \$10,000 and \$99,999 will be audited.

Committees that raise or spend less than \$10,000 will not be placed in the pool for the random drawing.

In addition to the random audit drawing, the Ethics Commission may exercise its discretion to conduct an audit of a campaign committee in connection with an ongoing investigation.

## **Treasurer Duties**

Please refer to the information in the FPPC Manual regarding the rules associated with campaign treasurers. In addition to the rules outlined in the FPPC Manual, it is important to note that the City's campaign laws require that all expenditures from the campaign bank account be made by check signed by the candidate, the campaign treasurer, or the designated agent of the campaign treasurer.

**Note: Campaign treasurers (including volunteers) may be held personally responsible for violations of the City's campaign laws. It is very important, therefore, that campaign treasurers understand and abide by all state and local campaign laws. No person should agree to act as a campaign treasurer "in name only," particularly without understanding their responsibilities and liabilities.**

## **Candidate Duties**

Please refer to the information in the FPPC Manual regarding a candidate's duties and responsibilities. Note that candidates are personally responsible for all the committee's activities and all the actions of the committee's representatives.

Candidates should carefully review the campaign statements before they sign them under penalty of perjury. The Ethics Commission holds candidates responsible for the accuracy and completeness of information disclosed to the public on campaign statements.



## Chapter 2

### Contributions

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Chapter 2 in the FPPC Campaign Disclosure Manual includes information regarding the solicitation and acceptance of campaign contributions. The information in this chapter of the Ethics Commission Candidate Manual is intended to supplement that information. In some instances, however, the information in this manual will supersede the information in the FPPC Manual (these instances are specifically called out).

For a summary of the local and state laws that apply to the acceptance of contributions by City candidates, please see the Ethics Commission's "Fact Sheet on Soliciting and Accepting Contributions." This fact sheet is posted on the Ethics Commission's website.

#### Contribution Limits

Candidates for elective City office may accept contributions up to \$500 per contributor per election. In other words, a contributor to a candidate running for City Council may give that candidate no more than \$500 for the primary election and no more than \$500 for the general election.

**Note:** Although candidates and their committees are permitted to accept contributions for the general election before the primary election, these contributions must be segregated and may not be used to pay expenses associated with the primary election.

**Note:** If a candidate is not in the general election (e.g. the candidate loses in the primary, wins outright in the primary, or withdraws) the candidate must return all general election contributions to contributors on a pro rata basis (less any administrative and/or fundraising costs).

The City's contribution limits do not apply to a candidate's personal funds. In other words, a candidate may contribute unlimited funds to his/her committee. Note that these personal funds must belong to the candidate in his/her individual capacity. In other words, a candidate may not receive unlimited funds from a spouse or relative.

**Example:** *Candidate Tom Taylor is running for Mayor. He may contribute \$10,000 of his own money for his campaign. His spouse, parents, children, in-laws, etc., however, are subject to the contribution limits and each may contribute no more than \$500 to support Candidate Taylor in the June 2012 primary election.*

#### Contributions from Organizations

Except as stated below, candidates for elective City office may only accept contributions from individuals. They may not accept contributions from any type of organization (e.g. corporation, company, partnership, joint venture, firm, association, proprietorship, committee, etc.). There are two exceptions to this rule; City candidates may also accept contributions from:

- A contributor's personal or family trust, up to the \$500 per person limit (aggregated with any other contribution from the contributor); and
- a political party, up to \$1,000.

Please see the Ethics Commission's "Fact Sheet on Contributions from Personal and Family Trust Accounts" for more information regarding the first exception.

**Note: The above information supersedes the information in the FPPC Manual, which states that contributions from businesses and similar entities are permitted but must be aggregated with contributions from the individuals who own or control the entities.**

It is important to remember that the City's ban on contributions from organizations also prohibits employers from reimbursing their employees for making contributions to City candidates.

### **Contributions for the Primary and General Elections**

Candidates may collect contributions for the general election before the primary election. In other words, candidates may accept contributions for both the primary and general elections before the candidate knows if he or she will be a candidate in the general election. The following rules apply to the acceptance of these contributions:

- contributions accepted for the general election may not be used to pay for expenditures associated with the primary election; in other words, you must keep track of the funds accepted for the general election and be sure they are segregated in the campaign bank account and not spent on primary election expenses;
- candidates may accept contributions of more than \$500 provided that the candidate allocates the contribution between two elections; for example, a candidate for a district race may accept a check in the amount of \$1,000 provided that the candidate allocates \$500 for the primary election and \$500 for the general election, and codes the contributions "P" for primary and "G" for general on the campaign statement (see Chapter 6 for additional information

regarding the disclosure of campaign contributions);

- it is not necessary to obtain written evidence of the contributor's intent or permission from the contributor before allocating a contribution to either the primary or the general election (or both); in other words, you do not have to get a note from the contributor indicating that a contribution should be allocated to a particular election, or divided between the primary and general elections;
- if a contributor does indicate that a contribution check is intended specifically for one election, you must designate the contribution for that election; in other words, you may not override the express intention of the contributor; and
- candidates who win outright in the primary, who are defeated in the primary, or who withdraw from the general election must refund the contributions collected for the general election to their contributors; in other words, if you are not a candidate in the general election, you may not keep the contributions you collected for the general election or spend them on debts incurred in connection with the primary election.

### **Loan Limits**

Loans from anyone other than the candidate or a commercial lending institution are considered contributions, and are subject to the contribution limits and source prohibitions discussed above. This means that candidates may not accept unlimited loans from their spouses, family members, or friends.

Although candidates may contribute unlimited funds to their committees, they may only loan their committees \$100,000 at

any one time. In other words, if a candidate has outstanding personal loans to his committee of \$80,000, he may loan the committee only an additional \$20,000. If a committee with \$100,000 in loans uses campaign funds to repay the candidate some or all of the loan, then the candidate may make additional loans, up to the \$100,000 limit.

**Example:** *Henrietta Hill is a City candidate who made a series of loans to her committee until she had \$100,000 in outstanding loans. After organizing several fundraisers, her committee brings in a significant amount of contributions and uses those funds to repay \$25,000 of the loan. Because Candidate Hill's outstanding loan balance is \$75,000, she may loan her committee an additional \$25,000.*

Note that the \$100,000 limit on loans from a candidate includes loans and lines of credit from a bank or similar financial institution. It does not, however, apply to debt incurred through the use of a credit card. Please refer to the FPPC Manual for the rules concerning the use of credit cards for campaign expenses.

### **Non-Monetary Contributions**

Non-monetary contributions include the following:

- goods or services donated to the campaign by others (other than volunteer personal services – see FPPC Manual);
- forgiveness or reductions in debts;
- equipment or supplies donated by the candidate (note that a candidate may not purchase supplies and then donate them to the campaign – instead, all personal funds must first be deposited into the campaign committee's bank account); and

- payments made by others on behalf of or in consultation with the campaign.

Although donation of property to a campaign is considered a non-monetary contribution, the incidental use of personal property or equipment is not considered a non-monetary contribution. In other words, if a candidate sends an email related to her campaign from her personal computer, she does not have to determine the pro-rata cost of the computer and/or the email services and report it as a non-monetary contribution.

On the other hand, if a candidate's personal computer is being used primarily for campaign-related activities, then the fair-market value of the computer should be reported as a non-monetary contribution (note that the candidate may also loan the computer to her campaign by making a non-monetary contribution equal to the fair-market value of leasing the computer).

**Note: Non-monetary contributions from individuals other than the candidate are subject to the City's \$500 contribution limits, and the ban on contributions from organizations.**

### **Anonymous Contributions**

Candidates for elective City office may not accept more than \$200 in anonymous contributions per election (not per contributor).

**NOTE: this information supersedes the information in the FPPC Manual which states that anonymous contributions of \$99 or less (per contributor) are permitted.**

## Exceptions

There are many exceptions to the definition of “contribution.” In other words, there are different types of activities that are not considered contributions to your campaign, and are therefore not subject to the City’s rules concerning contribution limits and the ban on contributions from organizations. Please refer to Appendix 1 in the FPPC Campaign Disclosure Manual for Additional Information.

One of the exceptions to the definition of “contribution” is a campaign fundraiser hosted by the occupants of a home or office if the costs incurred by the occupants do not exceed \$500. In other words, someone can host a fundraiser on your behalf in his or her home or office and spend up to \$500 on food, drinks, decorations, etc., and these expenditures will not be considered a contribution to your campaign.

For more information regarding the \$500 fundraiser provision, please see the Ethics Commission’s “Fact Sheet on Home or Office Fundraisers for City Candidates” for more information. This fact sheet is posted on the Ethics Commission’s website.

## Pre-Election Fundraising Time Period

The City of San Diego’s campaign laws including limitations on the time periods during which candidates may solicit and/or accept contributions.

Candidates may not solicit or accept contributions until 12 months prior to the primary election. For the 2012 election cycle, the fundraising period begins on June 5, 2011. As discussed above, candidates may accept contributions for the general election before the primary election. In other words, candidates participating in the June 5, 2012 primary election may begin soliciting and accepting contributions for both the June 2012 primary and the

November 2012 general elections on June 5, 2011.

There are no time limits, however, with regard to a candidate’s use of his or her personal funds. A candidate may, therefore, deposit personal funds into his or her campaign checking account and use those funds for campaign expenses prior to the one-year pre-election period.

## Post-Election Fundraising Time Period

Candidates may only solicit contributions for 180 days after their withdrawal, defeat, or election to office. The 180 day period begins on the date of the election. In other words, candidates must complete their fundraising by the following dates, as applicable:

- Candidates who win outright in the June 2012 primary election: December 2, 2012
- Candidates on the June 2012 primary election ballot who do not receive enough votes to be on the November 2012 general election ballot: December 2, 2012
- Candidates on the November 2012 general election ballot: May 5, 2013
- Candidates who withdraw from an election: 180 days from the date of filing withdrawal papers

Post-election contributions may be accepted only if a candidate has outstanding election-related debts.

**Example:** *After running for Mayor, Ignacio Ingerson’s committee has debts totaling \$2,500, but only a \$1,000 cash balance. He may raise an additional \$1,500 to retire this debt.*

A candidate may also raise funds post-election to pay:

- necessary administrative costs related to winding down the campaign, including office space rental, staff salaries, and office supplies;
- fundraising costs related to debt retirement; and,
- legal fees arising from a ballot recounts or similar election contests.

Note, however, that new debts voluntarily created by a candidate after the election, such as throwing a victory party or sending out mailers thanking voters, do not provide opportunities for the candidate to collect additional funds after the date of the election.

As indicated above, candidates may collect contributions after the election only during the 180 day post-election period. After that 180 day period, candidates must deposit personal funds into their campaign checking account to pay outstanding debts and ongoing administrative expenses.

**Note: If a candidate has an outstanding personal loan to his or her committee at the end of the 180-day post-election fundraising time period, the loan must be forgiven or converted to a contribution.**

### **Carryover of Contributions**

Candidates who have leftover funds from the primary election may “carryover” these funds and spend them on the general election. Note that this carryover provision applies only to funds leftover from a prior election. It does not permit candidates to use leftover funds from a general election to pay expenses associated with the primary election, nor does it permit candidates to carryover funds to run for a different elective office (although such funds may be transferred to a committee for a different

elective office, pursuant to applicable transfer guidelines).

### **Additional Restrictions and Prohibitions**

- Contributors may not be reimbursed for their contributions by other individuals unless the contributor discloses to the candidate committee that he or she is acting as an “intermediary” for another contributor (keep in mind that the true source of funds must be an individual). Any undisclosed reimbursement of a contribution is “campaign money laundering” and is strictly prohibited.
- Candidates may accept contributions by credit card, but may not open a second bank account to accept those contributions. When a candidate uses a vendor to process credit card contributions, the contributions are deemed to be received by the candidate when they are received by the vendor. There is no requirement to report these credit card vendors as “intermediaries” on campaign statements.
- Bank fees associated with credit card transactions are reported as expenditures, and not subtracted from the contribution amounts.
- Any payment for goods or services made at the request or suggestion of the candidate or his/her representatives, or in consultation or coordination with the candidate or his/her representatives, is considered a contribution to the candidate subject to the limits and source prohibitions discussed above.
- The forgiveness of a debt, or any reduction in the amount of a debt, is considered a contribution, subject to the City’s contribution limits and the ban on contributions from organizations. This rule does not apply in situations

involving a documented good faith dispute with a vendor.

- Candidate committees may not pay for property or equipment already leased by the candidate, his/her immediate family, the treasurer, or any other person with authority to approve campaign expenditures.

**Example:** *Ken Kaplan is a candidate for City Council. While speaking with the director of a local community group about his candidacy, he mentions that his committee doesn't have enough funds to pay for a campaign mailer. The director suggests that the community group pay for the postage to help defray the costs of the mailer. Ken asks the director not to pay for the postage. He explains that such a payment would constitute a nonmonetary contribution to his campaign and would violate local campaign laws because contributions from organizations to City candidates are not permitted.*

### Returning Contributions

As discussed above, there are a variety of limits, restrictions, and prohibitions on contributions made to City candidates. From time to time, a candidate's committee may inadvertently accept an improper contribution. The guidelines for handling the return of these improper contributions are as follows:

- If a candidate discovers that the committee has accepted an improper contribution, the committee should not deposit it. Instead, the committee should return it to the contributor within 30 days. In this scenario, there is no need to disclose the contribution on the committee's campaign disclosure reports.
- If the candidate's committee deposits an improper contribution and discovers the mistake within 10 calendar days of deposit or before the filing deadline for the relevant reporting period (whichever

comes first), then the committee may return the contribution to the contributor. In this scenario, the committee would report the receipt of the contribution (on Schedule A) and the return of the contribution (on Schedule E).

- Improper contributions resulting from mistaken identity (variations in spelling of contributor's name) may also be returned to the contributor before the filing deadline. The acceptance and return of the contributions would be reported on Schedules A and E.
- If the candidate does not discover the committee's mistake within 10 calendar days or by the filing deadline, the committee must submit a payment to the City Clerk in an amount equal to the improper contribution (along with a copy of the contribution check, information regarding the contributor, and a summary of the facts regarding the violation).



## Chapter 3

### Communications

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Chapter 3 in the FPPC Campaign Disclosure Manual includes information regarding communications with voters. In particular, this section of the FPPC Manual explains the difference between communications that are considered a contribution to a candidate, an independent expenditure, or some other type of reportable payment. It also addresses certain types of communications that are not considered contributions or reportable campaign activities.

The information in this section of the Ethics Commission Candidate Manual is intended to supplement the information in the FPPC Manual. With respect to disclosures that must appear on campaign advertisements, however, the City of San Diego's campaign laws require additional disclosures on different types of communications, as discussed in greater detail below. In other words, with respect to disclosures and/or identifications that must appear on campaign literature and advertisements, the information in this manual supersedes the information in the FPPC Manual.

#### **Solicitations for Contributions**

When candidates and their committees solicit contributions from potential contributors using printed materials, such as mailers or door-hangers, or using a web site, the solicitation must be accompanied by this statement: "It is unlawful for a contributor to be reimbursed by any organization, business, or similar entity for a contribution supporting or opposing a City candidate."

This statement must be in a prominent place and printed in typeface that is easily legible, contrasts with the background, and is not smaller than the typeface used in a majority of the text in the materials or on the site.

If a candidate or his or her committee discovers that a solicitation did not contain the required statement set forth above, they may remedy the violation by sending a written notice containing the required statement to all individuals who were sent the solicitation (or in the case of a web site donation, all the individuals who made a contribution through the website) and notifying the Ethics Commission of the violation and remedial action, provided that all such notices are made before the date of the election for which the solicitation was made, and no later than 14 calendar days after the discovery.

#### **Campaign Literature**

All types of campaign materials produced in quantities of 200 or more (mailers, yard signs, door hangers, etc.) must include a "paid for by" disclosure.

Candidate-controlled committees must follow these disclosure rules when distributing campaign materials:

- each item must include the words "paid for by" followed by the name of the name, street address, and city of the committee;
- In a multi-part mailer (e.g., outer envelope, letter, enclosed remittance envelope), the disclosure needs to appear on only one of the parts. It could, for example, appear on the outside of an envelope or in the body of a letter.
- the disclosure must be printed in a legible 12 point typeface that contrasts with the background (the 6 point type allowed under state law is not sufficient);
- a post office box may be used in lieu of a street address if the committee's street

address is a matter of public record with the Secretary of State; and

- the disclosure must include the name of the candidate.

In addition, campaign literature sent via mail must identify the sender (with street address and city) on the outside of the mailing in a legible 12 point typeface. The “paid for by” disclosure may be combined with the sender information on the outside of the mailer, or it may be made separately in another location on the mailer.

**Note:** Although state law requires a “paid for by” disclosure on mailers, local law requires disclosures on all types of mass-distributed campaign literature, including door hangers, flyers, and yard signs.

Please see the Ethics Commission’s “Fact Sheet on Mass Campaign Literature” for more information. This fact sheet is posted on the Ethics Commission’s website.

### Mass Telephone Communications

The City’s campaign laws require candidate-controlled committees to include a disclosure statement when making campaign-related telephone calls to 500 or more individuals or households in connection with the same election. In order to count toward the 500-call threshold, the call must be made to support the candidate or oppose the candidate’s opponent, or be part of a poll that mentions the candidate or his/her opponent.

The required disclosure consists of a statement that the communication is “paid for by,” “on behalf of,” or “authorized by,” immediately followed by the name of the candidate or the candidate’s controlled committee. Because candidate-controlled committees must include the name of the candidate, the candidate’s name will always be part of the disclosure statement.

The type of disclosure depends on how the calls are being made, and whether the callers are volunteers or paid employees.

When the candidate’s committee pays its staff to make the calls, or pays another person or entity to make the calls, the individuals making the calls must state that the calls are “paid for by” the candidate or committee.

**Example:** *The Committee to Elect Ellen Eagle pays its staff make a thousand calls to encourage voters to support Eagle. The callers will state at some point during each call that the call is being “paid for by the Committee to Elect Ellen Eagle.”*

**Example:** *The Committee to Elect Darrin Drake hires a company to conduct a telephone poll of a thousand district residents regarding their opinions of Drake and his opponent. The callers will state at some point during each call that the call is being “paid for by the Committee to Elect Darrin Drake.”*

When volunteers are making the calls for the candidate, the persons making the calls must state that the calls are being made “on behalf of” the candidate or committee.

**Example:** *The Committee to Elect Stan Smith purchases a contact list of registered voters and recruits a dozen volunteers to call the voters on the list to encourage them to vote for Smith. The callers will state at some point during the call that they are calling “on behalf of the Committee to Elect Stan Smith.”*

If another person or entity spends money to make calls at the behest of the candidate (i.e., is making an in-kind or nonmonetary contribution to the candidate), the individuals making those calls must state that the calls are “authorized by” the candidate or committee.



**Example:** Greg Gilbertson wants to support Frieda Ford who is running for City Council. Frieda gives Greg a list of registered voters to call for campaign contributions. Greg spends \$500 on the fundraising effort. (Freida's committee will report the \$500 spent by Greg as an in-kind contribution.) The individuals paid by Greg will state at some point during their calls that the calls were "authorized by the Committee to Elect Frieda Ford."

The disclosure requirement is triggered as soon as the committee makes arrangements for calls that will take it to or past the 500-call threshold for the election. Once the committee knows that it will reach that threshold, it must begin making the disclosure; it should not wait until the 500th call.

**Example:** Early in its campaign, the Committee to Elect Alan Applebee hires a company to make 200 calls for polling purposes. It does not need to include a disclosure statement in those calls because this effort will not cause the total election-related calls to reach the 500-call threshold. A month before the election, the Committee hires a "phone bank" company to make 400 advocacy calls for the candidate. At this point, the Committee has made arrangements that will cause it to exceed the 500-call threshold. Each call made by the phone bank on behalf of the candidate must include the "paid for by" disclosure statement.

Additional rules associated with this disclosure are as follows:

- The statement must be clearly audible and at the same general volume as the rest of the telephone message.
- The committee must maintain a transcript of the message being communicated and a record of the number of calls for each message.

- A candidate personally making calls does not have to make the "on behalf of" disclosure.
- For purposes of reaching the 500-call threshold, the calls need not use the same script or be similar in nature. Any call that is made to support the candidate or oppose another candidate will count toward the 500-call threshold.
- In addition, all calls made for the purpose of conducting a poll that mentions the candidate or the candidate's opponent will count toward the 500-call threshold.
- Routine calls between campaign staffers, calls to vendors, and similar type calls that are not advocacy calls or polling calls do not count toward the threshold.
- The committee must maintain for four years a transcript of the phone message being communicated, a copy of any recorded messages, and a record of the number of calls for each message.
- Calls that are considered "member communications" are not exempt from the above disclosure requirements.

**Note:** This information supersedes the information in the FPPC Manual. Although state law exempts campaign managers and volunteers from this type of disclosure requirement, local laws are more restrictive. In City of San Diego elections, campaign managers and volunteers must make the "on behalf of" disclosure.

Please see the Ethics Commission's "Fact Sheet on Telephone Communications" for more information. This fact sheet is posted on the Ethics Commission's website.

## Billboard Advertising

Candidates who choose to advertise on a billboard must comply with a “paid for by” disclosure requirement.

Campaign messages on a billboard must include the words “paid for by” followed by the name of that candidate or his or her committee (e.g., “Paid for by Friends of Maria Garcia”) and the size of the disclosure must be at least five percent of the height of the advertisement and be printed in a contrasting color.

The height requirement applies to the height of the font used in the disclosure. Accordingly, if a disclosure is spread across multiple lines of text, the height of each line of text in the disclosure must be equal to or greater than five percent of the height of the billboard.

## Disclosures on Advertisements in Mass Media

Candidate and their committees must include a “paid for by” disclosure in any advertisement purchased in a newspaper, periodical, or magazine of general circulation.

The “paid for by” disclosure must also appear in any Internet web page advertisement. This disclosure requirement does not apply to the candidate’s own website, but instead to websites that sell a portion of their web page for advertising purposes.

The disclosure must be in the form of “paid for by” followed by the name of the candidate or committee, and must be in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size.

**Example:** *The Committee to Elect Rob Rogers purchases ad space in the Union-Tribune newspaper and on The Voice of San Diego website. Both advertisements must include the words “Paid for by the Committee to Elect Rob Rogers.”*

**Note:** If a web advertisement is too small to allow the full “paid for by” disclosure, make sure the advertisement contains a link to a webpage clearly displaying that information.

## Electronic Advertising

In addition to the local rules discussed earlier, state law now imposes “paid for by” disclosures on certain types of campaign advertising that appear on Internet web pages, blogs, mobile devices, and other electronic communication systems. These rules are outside the scope of this manual; consult the California Fair Political Practices Commission for more information.

## Chapter 4

### Getting Started

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Chapter 4 in the FPPC Campaign Disclosure Manual includes information regarding the requirements associated with becoming a candidate and setting up a campaign committee.

The City Clerk is the filing official for the City of San Diego, and is responsible for administering the City's elections. Accordingly, please refer to the City Clerk's Candidate Information Manual for additional information regarding the candidacy requirements in the City of San Diego and the steps to take to become a City candidate.

It is important to remember that you cannot accept any campaign contributions or make any campaign expenditures until you have filed a Candidate Intention Statement and established a campaign bank account. If you receive \$1,000 or more, you must also create a campaign committee by filing a Form 410 within ten days. These rules also apply to a candidate's personal funds. In other words, you may not spend your own money to advance your candidacy without filing the required forms and establishing a campaign bank account (all personal funds, other than the initial filing fee, must be deposited in the campaign bank account).

It is also important to remember that the City of San Diego's campaign laws restrict the time periods during which you may solicit and/or accept contributions. Please refer to Chapter 2 for additional information.

After you have become a candidate and established a campaign committee, you will need to file periodic campaign statements to disclose your campaign contributions and expenditures. Please see Chapter 6 for

additional information on how to complete these disclosure forms.

Both the FPPC Manual and the City Clerk Manual explain that candidates must file a Statement of Economic Interests. This is a form used for the disclosure of information regarding a candidate's personal financial interests such as investments in companies, investments in real estate, sources of income, loans, and gifts. If you have questions about the type of information you must disclose as a City candidate, please contact the Ethics Commission for assistance.

## Chapter 5

### When and Where to File Reports

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Chapter 5 in the FPPC Campaign Disclosure Manual explains when and where candidates must file campaign statements. In particular, this section of the FPPC manual addresses the filing of semi-annual and pre-election statements.

The City Clerk is the filing official for the City of San Diego. Accordingly, please refer to the City Clerk's Candidate Information Manual for additional information regarding the filing of campaign statements.

It is important to remember that the City now requires electronic and paper filing of campaign statements if a candidate has received \$10,000 or more in contributions (including contributions from the candidate) or made \$10,000 in expenditures.

In the City of San Diego, candidates are required to file three pre-election statements instead of the two that are mandated by state law. The first two pre-election statements will have the traditional cut-off dates and filing deadlines. The third pre-election statement must be filed by the Friday before the election. It has a closing date of the Thursday before the election and will cover all activities and payments occurring through that day.

For the June 5, 2012, primary election and the November 6, 2012, general election, the pre-election filing deadlines (and the applicable reporting periods) are set forth in the following chart.

#### ***2012 Primary Election***

##### **1st pre-election period**

reporting period: 1/1/12 – 3/17/12  
filing deadline: 3/22/12

##### **2nd pre-election period**

reporting period: 3/18/12 – 5/19/12  
filing deadline: 5/24/12

##### **3rd pre-election period**

reporting period: 5/20/12 – 5/31/12  
filing deadline: 6/1/12

#### ***2012 General Election***

##### **1st pre-election period**

reporting period: 7/1/12 – 9/30/12  
filing deadline: 10/5/12

##### **2nd pre-election period**

reporting period: 10/1/12 – 10/20/12  
filing deadline: 10/25/12

##### **3rd pre-election period**

reporting period: 10/21/12 – 11/1/12  
filing deadline: 11/2/12

Keep in mind that in addition to pre-election filings, candidates must file semi-annual reports by the applicable deadlines. For committee activity in 2012, the semi-annual filing deadlines are July 31, 2012, and January 31, 2013. Contact the City Clerk's Office for additional information regarding filing deadlines.

## Chapter 6

### Committee Report – Form 460

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Chapter 6 in the FPPC Campaign Disclosure Manual includes information regarding the completion of campaign statements (also known as Forms 460) by candidate committees. The information in this section of the Ethics Commission Candidate Manual is intended to supplement the information in the FPPC Manual. In other words, the information in this section will address the additional disclosure requirements in the City's campaign laws.

#### **Cover Page and Summary Page**

City campaign laws do not require any additional disclosures on these pages.

#### **Schedule A – Monetary Contributions**

In addition to the requirements outlined in the FPPC Manual, City of San Diego candidates must:

- list contributors in alphabetical order;
- code contributions “P” for the primary election or “G” for the general election (in the event of a special election, the contributions must be coded “S” for special election and “R” for special run-off election).
- disclose the cumulative amount of contributions received from the contributor for each election in the “per election to date” column.

In addition, as discussed in greater detail above in Chapter 1, City candidates must deposit contributions within 30 business days, and request any missing contributor information (name; street address; and if \$100 or more, the occupation, and employer) within 10 business days. All required information must be obtained before the contribution is deposited.

It is important to remember that the City's campaign laws also include a variety of restrictions on the types of contributions that may be accepted, and the time periods during which they may be solicited or accepted. Please refer to Chapter 2 for additional information.

#### **Schedule B – Loans**

City campaign laws do not require any additional disclosures on Schedule B. Keep in mind, however, that City law limits loans from candidates to their committees to no more than \$100,000 at any one time. See Chapter 2 for additional information.

#### **Schedule C – Nonmonetary Contributions**

City campaign laws do not require any additional disclosures on Schedule C. It is important to note, however, that the City's \$500 contribution limits apply to both monetary and nonmonetary contributions.

***Example:** A friend of Candidate Harold Hall donates a used laser printer to the Hall committee for use in its June 2012 primary election campaign for a City Council office. Because the printer has a fair market value of \$200, Candidate Hall may not accept a monetary contribution in excess of \$300 from that friend for the primary election.*

It is also important to remember that the City's ban on contributions from organizations applies to nonmonetary contributions. In other words, a business may not give your campaign anything of value (including discounted services), or make payments to campaign vendors on your behalf.

#### **Schedule D – Summary of Expenditures Supporting/Opposing Other Candidates, Measures, and Committees**

City campaign laws do not require any additional disclosures on Schedule D. Keep in mind, however, that candidate committees may not make contributions supporting other City candidates, because City law prohibits contributions from organizations (which include campaign committees) to City candidates. City candidate committees may, however, make contributions to City ballot measure committees or to candidates in other jurisdictions.

#### **Schedule E – Payments Made**

City campaign laws do not require any additional disclosures on Schedule E.

#### **Schedule F – Accrued Expenses (Unpaid Bills)**

City campaign laws do not require any additional disclosures on Schedule F. It is important to remember, however, that City law requires candidates to pay all campaign vendors within 180 days of receiving an invoice or 180 days of receiving goods or services, whichever is sooner. This 180-day rule does not apply in situations where there is a documented good faith dispute with a vendor.

**Note: If a candidate is unable to raise enough funds to pay his/her campaign vendors within 180 days, the candidate must deposit sufficient personal funds into the committee to pay the vendors in full.**

If a campaign debt is not paid within the 180-day period, a separate violation of the City's campaign laws occurs each and every day the debt remains unpaid. Remember that any reduction negotiated with a vendor after services are provided is a non-monetary contribution subject to the City's contribution limits and the ban on contributions from organizations.

#### **Schedule G – Payments Made by an Agent or Independent Contractor**

City campaign laws do not require any additional disclosures on Schedule G.

#### **Schedule H – Loans Made to Others**

City campaign laws do not require any additional disclosures on Schedule H. Note, however, that City law prohibits City candidate committees from making loans to other City candidate committees (because loans from anyone other than a candidate or a commercial lending institution are considered contributions and contributions from organizations – including committees – are prohibited).

City law does not restrict the ability of City candidate committees to make loans to City ballot measure committees, or to candidate committees in other jurisdictions.

#### **Schedule I – Miscellaneous Increases to Cash**

City campaign laws do not require any additional disclosures on Schedule I.

## Chapter 7

### Additional Reports

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Chapter 7 in the FPPC Campaign Disclosure Manual addresses different types of campaign reports that are required if your committee makes certain types of contributions or expenditures. In general, these other types of campaign reports are required when a candidate committee makes large contributions to another committee, or makes independent expenditures to support a ballot measure.

The City Clerk is the filing official for the City of San Diego. Accordingly, please refer to the City Clerk's Candidate Information Manual or contact the City Clerk's Office directly for additional information regarding the filing of campaign statements.

Chapter 7 in the FPPC Manual addresses the filing of Late Contribution Reports (Form 497). These reports must be filed when you or your committee make contributions totaling \$1,000 or more during the 16 days before an election. This includes contributions made by the candidate to his/her committee. In other words, if you contribute a total of \$1,000 or more of your personal funds to your committee in the 16 days before an election, you must file a Form 497.

As discussed above, the City's laws prohibit City candidate committees from making contributions to other City candidate committees, although contributions to City ballot measure committees are allowed. If your committee makes contributions totaling \$1,000 or more to a ballot measure committee within the 16 days prior to an election, your committee will be required to file a Form 497.

## Chapter 8

### After the Election

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Chapter 8 in the FPPC Campaign Disclosure Manual includes information regarding the filing of campaign statements by successful and defeated candidates, and the state rules regarding termination of a campaign committee. The information in this section of the Ethics Commission Candidate Manual is intended to supplement the information in the FPPC Manual. In some instances, however, the information in this manual will supersede the information in the FPPC Manual (these instances are specifically called out).

For a summary of the local and state laws that apply to various post-election activities, please see the Ethics Commission's Fact Sheet entitled "After the Election – Guidelines for City of San Diego Candidates."

The City Clerk is the filing official for the City of San Diego. Accordingly, please refer to the City Clerk's Candidate Information Manual, or contact the City Clerk's Office for information concerning the filing of post-election campaign statements and/or the filing of forms to terminate a committee.

It is important to remember that City candidates have filing responsibilities after an election. In other words, even when candidates lose an election, they must continue to file campaign disclosure statements until they terminate their committees.

**Note: The failure to file campaign disclosure statements after an election may result in fines imposed by both the City Clerk and the Ethics Commission.**

#### Outstanding Debts

Whether a candidate has won or lost, the candidate may have outstanding campaign debts. The City's campaign laws require all candidates to pay their debts within 180 days of receiving an invoice or receiving the goods or services from a vendor (whichever is earlier). Even if a City candidate is defeated and is unable to raise any additional contributions to pay his or her committee's debts within the 180-day period, the candidate must deposit sufficient personal funds into the committee to pay all campaign vendors in full.

**Note: The City's vendor debt laws are more stringent than the state's laws, which permit candidates to terminate their committees with outstanding debts.**

In addition, as discussed above in Chapter 2, the City's campaign laws permit candidates to accept contributions for only 180 days after the withdrawal, defeat, or election to office. This 180 day period begins on the date of the election. Therefore, if a candidate has an outstanding personal loan with his or her committee at the end of the 180-day post-election fundraising time period, the loan must be converted to a contribution.

Candidates may only accept contributions after an election if they have outstanding debts (including loans) from that election. In other words, if a candidate has a zero balance or leftover funds (after paying off all vendors and loans) at the end of the primary election, he or she may not continue to accept contributions for that election.



### **Leftover Funds and Equipment**

Leftover campaign funds can be used in different ways, depending upon whether the candidate wins or loses the election. If a candidate is successful, the leftover funds may be maintained in the candidate committee bank account and used for officeholder purposes during the term of the official's office. At the end of the term, any leftover funds will become "surplus."

If a candidate is defeated, any leftover funds will become "surplus" at the end of the post-election reporting period. For the June 2012 primary, all leftover funds for defeated candidates will become "surplus" on June 30, 2012. For the November 2012 general election, all leftover funds for defeated candidates who participated in that election will become "surplus" on December 31, 2012.

When campaign funds are transformed from leftover funds into "surplus" funds, they become subject to stringent state and local laws. In particular, surplus funds may not be used for a future election. Refer to Chapter 9 for additional information regarding the restrictions governing the use of surplus funds.

It is important to remember that leftover equipment and supplies belong to the committee, not the candidate or the campaign staff. These leftover assets must be sold at fair market value, and the proceeds must be treated the same way as leftover funds. In other words, if your campaign committee has purchased a computer, you may not take personal possession of the computer following the election unless you pay your committee the fair market value of the used computer. This payment must take place before the equipment becomes "surplus," and must be deposited into the campaign bank account.

As discussed in greater detail in Chapter 9, leftover equipment and supplies may be donated to charities pursuant to the surplus funds rules.

### **Closing the Committee**

As discussed above, the City Clerk is the filing official for the City of San Diego. Accordingly, please refer to the City Clerk's Candidate Information Manual or contact the Office of the City Clerk (619-533-4025) for information concerning the forms that must be filed in order to close your campaign committee.

### **Audit and Litigation Expenses**

The committee may use leftover campaign funds (including "surplus funds") to pay fees and costs associated with responding to an audit or defending the candidate in a civil, criminal, or administrative proceeding related to the election or the performance of governmental duties. Note, however, that the campaign committee may not accept new contributions to pay for these costs beyond the 180-day post-election fundraising period (see Chapter 2 for more details), except as described in the following paragraph.

Candidates may also collect contributions for audit and litigation costs by opening a separate committee designated solely for such purposes. City laws permit candidates and officeholders to establish a "professional expense committee" to raise money (legal defense funds) to defray fees and costs associated with an audit or enforcement action. Contributors may donate up to \$500 per proceeding per calendar year, and are not subject to the 180-day post-election fundraising period. Such funds are held in a committee and bank account that are separate and distinct from a candidate's or officeholder's campaign committee and campaign bank account.

For additional information regarding establishing a committee for this purpose, please refer to the Ethics Commission's "Fact Sheet on Professional Expense Committees." This fact sheet is posted on the Ethics Commission's website.

## Chapter 9 Restrictions

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Chapter 9 in the FPPC Campaign Disclosure Manual includes information regarding additional restrictions that are not addressed in other chapters. Such restrictions concern the laundering of campaign funds, the making of cash contributions, the permissible uses of campaign funds, and the spending of surplus funds.

The information in this section of the Ethics Commission Candidate Manual is intended to supplement the information in the FPPC Manual. In other words, the information in this section will address the additional restrictions contained in the City's campaign laws.

### **Restrictions on Contributions**

In addition to the restrictions explained in the FPPC Manual, the City's campaign laws include a variety of restrictions concerning the solicitation and acceptance of campaign contributions. These restrictions are addressed in detail above in Chapter 2.

### **Restrictions on Soliciting Contributions from City Employees**

The City's Ethics Ordinance prohibits City candidates from soliciting contributions from City employees.

The term "City employees" includes all paid City officers and employees, as well as the paid officers and employees of the City's agencies (Centre City Development Corporation; Southeastern Economic Development Corporation; San Diego Housing Commission; San Diego Data Processing Corporation; and San Diego Convention Center Corporation).

There is an exception for some solicitations that are made to a large segment of the

public, such as situations in which a campaign committee purchases a mailing list that incidentally includes one or more City employees. For this exception to apply, you must have no reason to believe that a City employee is receiving the solicitation. Thus, if you are creating the list of recipients, you may not add someone to the list who you know is a City employee, regardless of the size of your recipient list.

For lists that you purchase, you should exercise reasonable due diligence to filter out the names of all City employees. In other words, you should review the recipient list to remove the names of individuals you know to be City employees. If it is an e-mail solicitation, you should also comb the list of e-mail addresses to remove those that end with a domain name associated with the City of San Diego or any of its agencies: sandiego.gov, ccddc.com, sedcinc.com, sdhc.org, sddpc.org, and visitsandiego.com.

**Note:** This prohibition does not prevent City employees from making contributions to City candidates. The prohibition only restricts candidates and their representatives from asking City employees for contributions. Also note that the prohibition applies only to campaign contributions, and not to other forms of support.

**Example:** Candidate Paula Porter used to work in the City's Water Department. She runs into a group of former colleagues having lunch at a restaurant. One of them asks Porter what they can do to support her campaign. Candidate Porter remembers that she can't ask these City employees for campaign contributions. Instead, she asks if they would be interested in putting signs in their yards and volunteering their time at her campaign headquarters.

### Payments to Spouse

Under a relatively new law, candidates are not permitted to use their campaign funds to pay their spouses or domestic partners for campaign fundraising services.

### Use of City Resources

The City's Ethics Ordinance also prohibits City Officials (including elected officials) from using City facilities, equipment, supplies, or resources for campaign-related purposes. In other words, an elected official who is running for re-election may not use any City resources for campaign-related purposes.

### Use of Campaign Funds

Please refer to Chapter 9 in the FPPC Manual for information regarding the permissible uses of campaign funds.

### Surplus Funds

If a candidate loses an election, all leftover campaign funds will be considered "surplus" at the end of the post-election reporting period following the election.

**Example:** Candidate Wilbur Whitman comes in third in the June 2012 primary election. He has several hundred dollars in campaign funds remaining after paying off all his campaign debts. Those leftover funds will become surplus at the end of the next reporting period (June 30, 2012).

If a candidate wins the election, all leftover campaign funds will be considered "surplus" when he or she leaves office (i.e. when the elected official's term expires). During the interim period, the candidate may use any leftover funds for officeholder expenses. Such expenses must be reasonably related to a political, legislative, or governmental purpose. In addition, if the expense confers a substantial personal benefit on the candidate, a member of their household, or an individual authorized to approve campaign expenditures, then the expenditure must be directly related to a

political, legislative, or governmental purpose.

**Example:** Candidate Mary Mahoney is elected to office in 2012. While in office, Mary pushes for the creation of a new City park in her district. She decides to use some of her leftover funds to pay for flyers announcing the ribbon-cutting ceremony for the new park. Because these funds are not yet surplus, and because the payment is reasonably related to a governmental purpose, the funds may lawfully be spent on the flyers. Note that when Mary's term expires, any remaining leftover funds will become surplus.

"Surplus" funds are subject to very stringent restrictions, and may be used only for the following purposes:

- to pay outstanding campaign debts (note that vendor debts must be paid within 180 days of receiving an invoice or receiving the goods/services, whichever is earlier);
- to repay contributions;
- to make a donation to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization (note that such donations cannot have a financial benefit on the candidate, any member of his or her immediate family, or his or her campaign treasurer);
- to make a contribution to a political party (as long as the funds are not used to support or oppose candidates for elective City office);
- to make a contribution to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure; and,
- to pay for professional services including legal fees.

Surplus funds may not be transferred or carried-over to another committee.

For additional information concerning the use of “surplus” funds, please refer to Chapter 9 in the FPPC Manual.